NATIONS

E

Economic and Social Council

Distr.
GENERAL
E/CN.4/Sub.2/2001/NGO/1
20 June 2001

Original: ENGLISH, FRENCH AND SPANISH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on the Promotion and Protection of Human Rights
Fifty-third session
Item 2 of the provisional agenda

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII)

Written statement*/ submitted by Baha'i International Community, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[18 June 2001]

---

*/ This written statement is issued, unedited, as received in English, French and Spanish from the submitting non-governmental organization(s).

GE.*0043-0* LS

ENG

At the last session of the Commission on Human Rights, the Egyptian delegation used their Right of Reply to respond to an oral presentation regarding the situation of the Bahá'ís in Egypt made by the Bahá'í International Community under agenda item 11. The Bahá'í International Community had made a similar statement on the same issue at the previous Sub-Commission in August 2000.

At this time the Bahá'í International Community would like to respond to some of the issues raised in the Egyptian Right of Reply and to update the Sub-Commission on the latest developments in the situation of the Bahá'ís in Egypt.

As we have asserted from the outset, the Bahá'í International Community would have preferred to resolve the problems facing the Bahá'ís in Egypt directly with the relevant Egyptian diplomats and government authorities. However, after talks with the authorities over a number of years failed to resolve this half-century-old situation, no option remained but to raise the issue of human rights abuses facing that community at the international level.

The Bahá'í community in Egypt has coexisted peacefully with other religious communities in that country since 1868. Bahá'ís the world-over believe that the fundamental purpose of religion, emanating as it does from one God, is to promote concord and harmony. Bahá'ís, individually and collectively, avoid involvement in party politics[1] and hold obedience to government as one of their religious tenets. This position stems from the explicit directives of the Founder of the Bahá'í Faith, Bahá'u'lláh, who states: "In every country where any of this people reside, they must behave towards the government of that country with loyalty, honesty and truthfulness."[2]

Bahá'ís revere the position of the Prophet Muhammad, uphold the Holy Quran as the authoritative repository of God's word and testimony, and have the utmost respect for the religion of Islam.

Of the Prophet Muhammad, Bahá'u'lláh writes, "Exalted, immensely exalted is His station above the glorification of all beings and sanctified from the praise of the entire creation. Through His advent the tabernacle of stability and order was raised throughout the world and the ensign of knowledge hoisted among the nations."[3] In fact, as a religion which believes in the continuous and progressive nature of Divine Revelation, the Bahá'í Faith could do nothing other than uphold the truth of the Islamic message – as well as that of other divine Revelations - as a tenet of faith.

It is, therefore, particularly distressing to hear that the Bahá'ís are accused of extremism and of attacking Islam and its symbols, as asserted in the Egyptian Right of Reply under item 11 at the last session of the UN Commission on Human Rights. The statement claimed that the Bahá'ís arrested since mid-January 2001 in Sohag in Upper Egypt were arrested for possession of documents and leaflets attacking Islam and for being part of an outlawed group. However, the 9 Bahá'ís still in custody in late April 2001 are still waiting for charges to be filed. This clearly suggests some doubt on the part of the authorities that the alleged grounds for arrest would amount to charges that could stand up to scrutiny.

---

[1] "Bahá'u'lláh held that political action, which is necessarily partisan and divisive in nature, cannot hold the answers to problems that are universal in their very essence. All political instruments, he pointed out, are limited and particular, whether they be national, racial, cultural, or ideological. The Bahá'í principle of non-involvement in politics does not prevent Bahá'ís from taking public positions on purely social and moral issues, when these issues are not part of any partisan political debate. Indeed, over the years Bahá'ís have been at the forefront of action on several social issues such as racial equality and non-discrimination." William S. Hatcher and J. Douglas Martin, *The Bahá'í Faith The Emerging Global Religion*, (San Francisco: Harper & Row Publishers, 1985), p. 161

[2] Bahá'u'lláh, *Tablets of Bahá'u'lláh revealed after the Kitáb-i-Aqdas*, (Haifa: Bahá'í World Centre, 1978), pp. 22-23

[3] Bahá'u'lláh, *Tablets of Bahá'u'lláh revealed after the Kitáb-i-Aqdas*, (Haifa: Bahá'í World Centre, 1978), pp. 162-163

The Egyptian Right of Reply next conveys the fact that the Egyptian Constitution does not recognize the Bahá'ís' right to freedom of belief, as this right is restricted to Muslims, Christians and Jews. The Special Rapporteur on Religious Intolerance commented on another situation where a distinction was being drawn between 'known religions' and others, with regard to Constitutional guarantees of freedom of worship. He observed that the existence of a State religion should not be, "exploited at the expense of the rights of minorities and the rights linked to citizenship."[4] In that case, existing limitations were considered by the Special Rapporteur to be 'prejudicial' and inconsistent with human rights norms, and he recommended dropping the distinction altogether. Likewise in this case, lack of recognition in the Constitution should not serve as the basis on which to detract from the human rights of the Bahá'ís or reduce the need for legal accountability with regard to their arrest, detention or sentencing.

The claim is made that the Bahá'ís have issued statements against the Mufti of Egypt. This allegation is totally unfounded. The Bahá'í International Community, in defending the rights of the Bahá'ís in Egypt, merely drew attention in one of its statements to the fact that a fatwa mentioning the Bahá'ís, issued by the Mufti of Egypt, had been reproduced in the *Asharq Al-Awsat* daily on 17/2/01. The Bahá'í International Community statement at the 57th session of the Commission also pointed out that the Mufti of Egypt had issued a fatwa calling for enforcement of the laws specifying the punishment for apostasy against the Bahá'ís who had been arrested in Sohag. This repetition of facts, which had already been published in the daily press, certainly does not constitute an attack on the Mufti of Egypt. Nor does it justify the Egyptian claim that this mentioning of facts 'threatened public order' and obliged the government 'to intervene to preserve the collective security and social stability of its citizens and avoid chaos,' as claimed in the Right of Reply.

Regarding the designation of the Bahá'í Faith as an unrecognized religion in Egypt -- after decades of recognition -- the Bahá'í International Community notes that, in its General Comment 22, the Human Rights Committee adamantly rejects such a designation as a basis for the abrogation of rights. "The fact that a religion is recognized as a State religion or that it is established as official or traditional or that its followers comprise the majority of the population, *shall not result in any impairment of the enjoyment of any of the rights under the Covenant*, including articles 18 and 27, *nor in any discrimination against adherents of other religions or non-believers.*"[5]

In another context, the Special Rapporteur on Religious Intolerance has reminded the international community that, even *if* a member or members of a religious community *are* found to be guilty of crimes -- political or otherwise -- the guilt of the whole community cannot be extrapolated from the guilt of one or a few! He therefore advises that, "a clear distinction will be drawn between questions of belief and other questions of a political nature if the latter exist or arise. In that connection, it should not be presumed that the entire community has been politicized or is engaged in political or espionage activities."[6]

The Egyptian statement alleges concern about the "deviation" of the Bahá'ís "from the original path of its Founder," who they say is Bahaa El-Din, instead of Bahá'u'lláh. It claims that, should the Bahá'í "faction" have "continued as it was initiated, it would have received all respect and co-operation from the Egyptian authorities and enjoyed all the privileges provided for in the Islamic 'Shariaa' and the Egyptian constitution." First, the Bahá'í Faith is not a faction. In fact, the Bahá'í Faith has passed through the critical first century of its existence with the unity of its community firmly intact, undamaged by the age-old blight

---

[4] A/51/542/Add.1, General Assembly, 51st session, 7 November 1996, para. 132

[5] General comment No. 22, adopted by the Human Rights Committee at its 48th session on 20 July 1993, CCPR/C/21/Rev.1/Add.4, Italics added.

[6] E/CN.4/1996/95/Add.2, Commission on Human Rights, 52nd session, 29 February 1996, para. 106

of schism and faction that has characterized other religions. Hence, the statement of the Egyptian delegation is not only inaccurate on several counts but confusing.

The statement goes on to contrast correctly the Bahá'í community with two Islamic groups. This distinction is accurate, as the Bahá'í Faith considers itself to be invested with a new measure of divine revelation and a new message from God. Its claims cannot, therefore, be compared with groups who are under the shadow of Islam and its Message.

The Bahá'í International Community's statements at the Commission and Sub-Commission have asserted only the basic human rights of the Bahá'ís in Egypt, rights that are inherent in each and every human being. Referring to human rights as "privileges" and suggesting that one needs a particular orientation in order to gain "respect and co-operation from the ... authorities" in relation to human rights is totally inappropriate. This need to distinguish clearly between inherent rights and those privileges that are granted above and beyond human rights has been highlighted in another context by the Special Rapporteur on Religious Intolerance.[7]

The Bahá'ís do not seek any special advantages or privileges from the Egyptian Government. They seek only their basic human rights, particularly the right to practice their religion, as recognized by all civilized nations in the International Bill of Rights.

The recognized human rights that need to be restored to members of the Bahá'í community in Egypt include, for example, freedom from summary arrest and detention without trial, freedom from threats on their lives, freedom from arbitrary interference with their privacy, freedom from attacks on their property, and freedom from strict and constant police surveillance without reason.

These abuses have had serious consequences for the Egyptian Bahá'í community as a whole. Members are denied the possibility of legally registering their marriages – and hence of difficulties in obtaining birth certificates for their children. This is of great consequence for family allowances, pensions, inheritance, divorce, alimony and custody of children. Furthermore, Bahá'ís are denied the right to manifest their religion in worship and observance in community life with other Bahá'ís. This right was revoked in the banning of Bahá'í activities and in the dissolving of its administrative structure in Egypt.

The Bahá'í International Community calls on the Egyptian Government to end this systematic intimidation, to restore the legitimate rights and freedoms of members of the Bahá'í Faith in Egypt, and to return all property and assets it has confiscated from the Bahá'í community. It also calls on the Government to take appropriate measures to stem the upsurge in hate crimes against Bahá'ís instigated by Government-controlled news papers, radio and television stations which routinely air calls for the extermination of the Bahá'ís in Egypt.

General Comment 22 of the Human Rights Committee explains that the restrictions on the freedom to manifest religion or belief accepted under international human rights law, to which Egypt is a party, are severely limited. "Restrictions may not be imposed for discriminatory purposes or applied in a discriminatory manner."[8] It has to be pointed out that the Egyptian Supreme Court decision of 1 March 1975, upholding a 1960 Presidential Decree (No. 263) dissolving Bahá'í institutions, falls well short of this standard. The Egyptian Government's assertion at the last Commission that Bahá'ís in Egypt were arrested

---

[7] E/CN.4/1996/95/Add.2, Commission on Human Rights, 52nd session, 29 February 1996, para. 89

[8] General comment No. 22, adopted by the Human Rights Committee at its 48th session on 20 July 1993, CCPR/C/21/Rev.1/Add.4, Italics added.

due to membership in an 'outlawed group' and that the Presidential Decree dissolving the administration supporting Bahá'í community life is "in conformity with Egyptian law," is insufficient to satisfy human rights standards in this regard. The General Comment again insists that, "Limitations imposed must be established by law and must not be applied in a manner that would vitiate the rights guaranteed in article 18. [of the ICCPR]" Furthermore, these limitations concern only the manifestation of religion or belief, *not* other rights such as freedom from summary arrest and detention without trial, and other abuses with which Bahá'ís in Egypt have long had to contend.

The Egyptian Right of Reply also says that the Bahá'í International Community referred to the recent report of the Special Rapporteur on Religious Intolerance in a 'misleading form.' The Bahá'í International Community oral statement at the 57th session of the Commission on Human Rights merely mentioned in passing that the Special Rapporteur had 'reported on the situation of the Bahá'ís in Egypt in his report to the current session of the Commission.' This can be seen in paragraph 33 of his report.[9] Egypt's Right of Reply states that the Special Rapporteur's report has, in fact, 'included all the Egyptian responses, and has expressed appreciation to the Government of Egypt for these responses and for its efforts to prevent the politicization of religions and for fighting religious extremism.' A closer look at this report of the Special Rapporteur soon demonstrates that none of the Egyptian responses in fact dealt with the situation of the Bahá'ís. Moreover, the appreciation expressed by the Special Rapporteur was clearly with regard to a totally different issue – that of the praiseworthy efforts of the Egyptian Government in preventing extremists from taking over mosques. This appreciation is clearly stated in the context of Government efforts to combat the political exploitation of religion, not of condoning restrictions on the human rights of a religious minority in Egypt.

In closing, the Bahá'í International Community calls for an end to the government organized persecution against Bahá'ís in Egypt and the restoration of their rights. It requests, once again, that the Sub-Commission consider the grave breaches of human rights – particularly freedom of religion - suffered by the Bahá'ís. Finally, it proposes that the Government of Egypt take the following steps:

- Repeal the Presidential Decree of 1960 dissolving the Bahá'í institutions and making illegal the performance of any of their activities, and restore the right of the Bahá'í community to form its religious institutions.

- Release from prison the ten Bahá'ís arbitrarily arrested in Sohag .

- Assign responsibility to a civil authority for registering the marriages of Bahá'ís, or give such authority to Bahá'í institutions.

- In matters pertaining to identity, birth and official documentation, give Bahá'ís the same treatment as the members of other religious minorities.

- Finally, direct the Government-controlled media to cease disseminating incorrect information designed to stir up hatred against the Bahá'ís.

---

[9] E/CN.4/2001/63, 57th session, Commission on Human Rights, 13 February 2001

UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL
E/CN.4/Sub.2/2001/NGO/2
20 June 2001

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on the Promotion
and Protection of Human Rights
Fifty-third session
Item 5 of the provisional agenda

PREVENTION OF DISCRIMINATION AND PROTECTION OF INDIGENOUS PEOPLES AND MINORITIES

Written statement*/ submitted by All for Reparations and Emancipation, a non-governmental organization on the Roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[20 June 2001]

---

*/ This written statement is issued, unedited, as received in English, from the submitting non-governmental organization(s).

GE. *200-04306* LS

ENG

The following statement is offered by Mr. Silis Muhammad on behalf of the African American people.

We know that the United Nations does not recognize us, the African American people. Four hundred years of plantation slavery and its lingering effects have left us deprived of and denied our 'mother tongue', and thus outside of a definite place within the UN system. Although we are a people, and not a minority, in the United States we are placed within a minority status. We mimic the identity of the majority. We are buried and hidden within the majority language, culture and religion so very much that the United Nations in making its laws has left us out, it seems: it is not known immediately where we fit. This is an ongoing wrong. Throughout the Americas Region and beyond we are a people numbering 240,000,000, yet we live as if lost, without a recognized identity and without our human rights.

Since 1997 we have been delivering written and oral statements to the Sub-Commission on the Promotion and Protection of Human Rights. We have informed the Sub-Commission that we, the African American people, have been denied the human rights that other groups enjoy, as protected by Article 27 of the International Covenant on Civil and Political Rights, which the U.S. Government has ratified. We have told the Sub-Commission how we suffer from having been denied and deprived of our original language, our original culture and our original religion. We have told the Sub-Commission that we have been in this condition, living without our identity for the past 400 years

We have informed the Sub-Commission that the U.S. Government has systematically obstructed our attempts to identify and bring dignity to ourselves. We have told the Sub-Commission that we want our international political identity restored, and as a result of the U.S. Government's acts against us, we require UN assistance. We have prayed to the Sub-Commission for specific assistance in our efforts to resurrect ourselves, and receive reparations and restoration of our human rights. Thus we are confident that the Sub-Commission is aware that human rights are not presently being enjoyed by the African American people.

We have also brought our prayers to the Working Group on Minorities: a working group of the Sub-Commission. This Working Group has been entrusted with the task of promoting the rights of minorities in accordance with the Declaration on the Rights of National, Ethnic, Religious and Linguistic Minorities. We thank the Sub-Commission for continuing to authorize the Working Group on Minorities, and support its efforts. We recognize that the Working Group on Minorities has made a consistent effort to respond to our prayers, and bring our issues to the Sub-Commission. We would like to thank the Working Group on Minorities, and urge the members, who are also members of this esteemed Sub-Commission, to steadfastly continue their efforts on our behalf.

It is our prayer that the Sub-Commission on the Promotion and Protection of Human Rights consider the following three recommendations to this, its 53rd Session:

We urgently recommend that the Sub-Commission place the African American people on its agenda, alongside indigenous peoples and minorities. By placing us on the agenda, the Sub-Commission would acknowledge that it recognizes us as a group: as we have never questioned that we belong to each other as a group. We ask the Sub-Commission to take the bold step of beginning the official UN recognition of us by placing us on its agenda. We also asked to be placed on the agenda so that the experts of the Sub-Commission may be able to consider our issues and make decisions and offer resolutions on our behalf.

We recommend that the Sub-Commission invite the Working Group on Minorities to present before it a Working Paper of the Working Group on Minorities entitled *Existence and Recognition of Minorities*, document E/CN.4/Sub.2/AC.5/2000/WP.2, written by Sub-Commissioner Mr. Jose Bengoa. We believe that presentation and discussion of this working paper will benefit the Sub-Commission by offering some alternatives to the present understanding of the situation of the African American people in the United States and throughout the Region of the Americas.

In regard to the mass cry for reparation of the African American people, which the UN is confronting at the upcoming World Conference Against Racism, we ask the Sub-Commission to put forward a specific recommendation. We ask the Sub-Commission to recommend that UN expert and technical assistance be granted

in the establishment of an inclusive forum of African American leaders from the U.S.: a forum which would serve as a model for the Americas Region. This forum would seek to determine the damage we have sustained and the means of reparation needed in order to bring about our resurrection and restoration. It would also serve as a negotiating body for the African American people in their dealings with the U.S. Government. Without UN protection, there will be dangerous potential for U.S. Government manipulation of this mass movement, as there has been with mass movements of our people in the past.

UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL
E/CN.4/Sub.2/2001/NGO/3
29 June 2001

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on the Promotion
and Protection of Human Rights
Fifty-third session
Item 4 of the provisional agenda

ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Written statement*/ submitted by the Society for Threatened Peoples, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[22 June 2001]

---

*/ This written statement is issued, unedited, as received in English, from the submitting non-governmental organization(s).

GE. *200101436* LS

ENG

Economic, Social and Cultural Rights of minorities living in oil producing areas

At the World Economic Forum, Davos, on 31 January 1999, UN Secretary-General Kofi A. Annan challenged world business leaders to "embrace and enact" the UN-Global Compact, both in their individual corporate practices and by supporting appropriate public policies. In a globalized world corporations become more and more responsible for the human rights situation in the areas where they conduct their business. Since over 10 years Society for Threatened Peoples has been monitoring the interlinkage between business behaviour and human rights violations all over the world but especially in volatile territories where ethnic or religious minorities live. Society for Threatened Peoples wishes to draw the UN-Sub-Commission's attention to cases where international oil companies promised to promote a higher standard of living for minorities in the area where oil or gas was found and produced. The contrary happened, gross violations of human rights occured and Economic, Social and Cultural Rights were also violated as in Sudan, Columbia and in China (in the Tibet Autonomous Region and Xinjiang Uighur Automous Region).

1. Human rights violations in Sudan:

One of the bloodiest and longest running wars in Africa is being fuelled by oil. How complicit are foreign oil companies? A year after an official Canadian delegation led by John Harker condemned foreign corporate complicity the human rights situation is still escalating. In the oilfields and surrounding areas, government forces and government sponsored militias are forcefully emptying the area of civilian. This is beeing tolerated by Conmpanies such as Lundin, Petronas and CNPS. The offensive which will be necessary to take controlö of TotalFinaElf's concession will take the scorched earth close to the borders of Uganda and Kenya. Oil company infrastructure, including airstrips and oil roads are being used by government forces fighting in southern Sudan. This leads to increased fighting. Sudan is now exporting oil, the money earned therby is funding the expansion of war. A new industrial complex in the north has been developed and reported to be used for dual civilian.military use. Defense spending has doubled. As a consequese of emptying the land of civilians there people can no longer live off their land, this is leading to acute food shortages and fears of famine.

2. Oil exploration on the traditional territory of the U'wa people

In 1992 the Columbian government has granted drilling rights to the international oil company Occidental Petroleum on the traditional territory of the U'wa people in Columbia. Occidental estimates that the region known as the Samoré Block, contains approximately 1, 5 billion barrels of oil. Already in 1997, Roberto Cobaría, the U'wa's elected leader at the time, was pulled from his bed in the middle of the night and heavily beat and assaulted. Oxy began construction of its first drilling site, known as Gibraltar 1 in early 2000. This project has already led to a dramatic increase in human rights violations and environmental destruction. In the past year, the U'wa homeland has become heavily militarized. In March 2000 three American activists and supporters of the U'wa were murdered in Araca by a guerrilla group. The U'wa fear that these murders and the assault on Roberto Cobaría are a harbinger of things to come if the oil project goes forward on their land. The U'wa warn that unless the project is cancelled, it will only bring further violence, environmental and cultural destruction, oil spills from guerrilla bombings and deforestation from new access roads.

3. Foreign investment in the Chinese Autonomous Regions of Tibet and Xinjiang.

International oil and gas companies are investing in the energy sector of the chinese western regions of Tibet and Xinjiang. In talks with the state owned oil company PetroChina, BP Amoco has already begun negotiating it's participation in the construction of a 4200km long pipeline from Xinjiang to Shanghai. As for the construction of further pipelines, Petro China is negotiating with international companies. In Xinjiang the Chinese authorities suppress every engagement of the

Uighurs for human rights and democracy. The machinations of PetroChina mean the transfer of tens of thousands of Chinese oil workers to Tibet and Xinjiang. While this meas work for the Chinese the Tibetans and Uighurs suffer from a high unemplyment rate and very low living standard. These democraphic manipulations have already made Tibetans and Uighurs minorities in their own countries. Through it's investment in PetroChina BP Amoco makes itself extremely untrustworthy, Since PetroChina will have to follow the firm politics of it's parent company, the state-owned Chinese oil giant CNPC, BP Amoco will hardly be able to influence PetroChina's extraction methods. The Tibetan oil wells lie in the Kham and Amdo region, which were separated from Tibet and integrated into the Qinghai provice by China in 1949. But the Tibetans continue to see these regions as parts of Tibet. Tibetan and Mongolian nomads have always lived in the Tsaidem Basin, where the oil is going to be extracted. But as a result of the systematic exploitation of the oil reserves that are important to Central China, the Tibetans' and Uighurs' religious and cultural traditions are endangered, their human rights are violated, while the Chinese leadership continues to propagate the "development" of Tibet and Xinjiang.

In order to put an end to these multiple denials of economic, social and cultural rights, The Society for Threatened Peoples askes the United Nations Sub-Commission on the Promotion and Protection of Human Rights:

- To put pressure on the international oil companies concerned to reassess their operations in the territories mentioned with regard to the Global Compact process.

- To discuss the problem of no-go-areas, for instance Sudan for international oil corporations in the light of the Global Compact process.

- To find mechanisms making the principles of the Global Compact more binding for the international corporations.

UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL
E/CN.4/Sub.2/2001/NGO/4
3 July 2001

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on the Promotion
and Protection of Human Rights
Fifty-third session
Item 2 of the provisional agenda

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII)

Written statement*/ submitted by the Society for Threatened Peoples, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[29 June 2001]

*/ This written statement is issued, unedited, as received in English, from the submitting non-governmental organization(s).

GE.01-16398 LS

1. The gross and systematic violations of human rights and fundamental freedoms of the Tibetan people committed by the Chinese authorities continue to be documented. Human rights abuses, indeed, are increasing in number and severity since the adoption of resolution 1991/10 by the Sub-Commission. Individually, these human rights violations warrant the Sub-Commission's concern. Collectively, the pattern is so pervasive and persistent as to demand immediate condemnation and action.

2. That pattern of human rights abuses, and the sources of that pattern, were recognized in the International Commission of Jurists' 1997 report on Tibet, in which it concluded that Tibet is under "alien subjugation" and called for a referendum by Tibetans to determine how they wish to be governed. Indeed, allowing Tibetans to exercise their right of self-determination appears to be the only way to end the persistent human rights abuses in Tibet. On 10 March, this year, His Holiness the Dalai Lama in Speech to commemorate the 42nd Anniversary of the Tibetan National Uprising Day of 10 March, 1959 stated: "If the Tibetans are truly happy the Chinese authorities should have no difficulty in holding a plebiscite in Tibet. Already some Tibetan non-governmental organizations are advocating a referendum in Tibet. They argue that the best way to resolve this issue once and for all is to allow the Tibetans inside Tibet to choose their own destiny through a freely held referendum. They demand to let the Tibetan people speak out and decide for themselves. I have always maintained that ultimately the Tibetan people must be able to decide the future of Tibet. I would in fact whole-heartedly support the result of such a referendum."

3. For more than 20 years, the Tibetan government in exile under the leadership of His Holiness the Dalai Lama has been pursuing a policy of dialogue with China to resolve the Tibetan problem. In the spirit of reconciliation and compromise, numerous proposals were outlined by His Holiness the Dalai Lama. However, the Chinese leadership continues to oppose negotiations without preconditions although the Dalai Lama has said on record that he is not seeking the independence of Tibet. China has instead initiated a ruthless campaign in Tibet to further deny the Tibetan people of their human rights and fundamental freedoms. During a recent visit to Lithuania, the Dalai Lama said Lithuanians could help by raising the subject of Tibet's autonomy. "We are not seeking independence but autonomy and mutual understanding beneficial and acceptable to both sides," he told journalists. "When you meet Chinese intellectuals, businessmen or government representatives always remind them that we do not want to ruin their priorities of attaining unity and stability. This is our aim as well but it has to come from within, not through force or at gunpoint," the Dalai Lama added.

4. The Chinese Government continues to attempt to undermine the practice of Tibetan Buddhism. It still refuses to allow visitors to confirm the well-being of the eleventh Panchen Lama of Tibet, Gedhun Choekyi Nyima. Human rights groups and Governments report that scores of monks and nuns have been detained or expelled from their monasteries and nunneries for objecting to an ongoing "re-education campaign" or for refusing to denounce the Dalai Lama. The Tibetan Centre for Human Rights and Democracy based in India recorded 862 monastic expulsions, including 147 nuns, in the year 2000 as a direct consequences of the "patriotic re-education" campaign. With this, the overall number of monks and nuns who have been expelled under the impact of the campaign is now 12,271 according to the Tibetan Centre for Human Rights and Democracy.

5. In June, 2001 reports emerged from Tibet of the increased official Chinese monitoring of the growing clergy population of Serthar Buddhist Institute located in the so-called "Karze Autonomous Tibetan Prefecture" of Sichuan province. In the spring of this year, officials from 13 different districts of Kanze, Dartsedo, Derge, Nyarong, Sershul and Serthar (Serta)

districts of Kham came to Serthar Buddhist Institute or the Larung Ngarig Nangten Institute. The officials received direct instructions from both the Chinese government in Beijing and the provincial government in Chengdu that the Institute's massive clergy population of more than10,000 must be reduced to 1,500. The authorities said the excluded members of clergy must be returned to their respective districts or countries and the vacated monastic rooms demolished. The clergy population of Serthar Buddhist Institute cuts across nationalities. There are about 1,000 Chinese monks from China along with students from Singapore, Malaysia and Hong Kong, including 4,000 nuns who live and study at a nunnery, affiliated to the institute. The bulk of the population of Serthar Buddhist Institute were Tibetans.

6. In June 2000, 18 houses of Tibetan members of the Lhasa-based Tibetan Opera Association were raided to confiscate religious artifacts, altars, and statues which indicates that Beijing views Tibetan nationalism as being intrinsically linked to its religious and cultural identity. Strict orders were also issued in Tibet against celebration of traditional Tibetan festivals, including the birthday celebration of the Dalai Lama. The Chinese authorities have now intensified their policy of transforming Tibet into an atheist region to propagate the so-called communist "spiritual civilization".

7. In other development, in April this year, it was known that a five-metre bronze and gold statue of Maitriya, the future Buddha, that showcases the tomb of the 7th Dalai Lama, is being shipped to Shanghai from Lhasa, the Tibetan capital. The discovery together with the news that statues and artifacts from another shrine in the Potala Palace are being readied to be shipped as soon as possible to Shanghai is causing deep pain and anxiety to the people of Tibet. Tsering Dorje Gashi, the author of *New Tibet - Memoirs of a Graduate of the Peking Institute of National Minorities,* published in 1980, states in his book, "Priceless works of art, literature, and religious relics and works that were of model of Tibetan artistic perfection and achievement were taken out of the Potala and other monasteries... Idols and images made of gold, silver, brass and precious stones and metal were taken to China and eventually they found their way in the market of Hong Kong, Shanghai and Tokyo where antique-collectors from the West bought them for exorbitant prices. A rough estimate of the foreign exchange earned by China from the sale of Tibetan religious and art objects is more than 80 billion American dollars."

8. Although China ratified the Convention on the Elimination of All Forms of Discrimination against Women, State-sponsored violence against Tibetan women is common. Article 16 of the Convention gives women the right to decide on the number and spacing of their children and prohibits compulsory sterilization or abortion. In practice, restrictive birth control policies are carried out in Tibet through coercion and force. During the year 2000, the Chinese authorities made contradictory statements regarding the population growth conepts for the "backward western parts of the country" which includes Tibet. Officially admitting various adverse effects in the western regions due to the rising population growth, measures of control have been strictly targeted at repressive birth control policies on Tibetans. These indicated an increase in the application and enforcement of illegal birth control policies on "ethnic minorities" who had previously been "exempt", with a flagrant, proclaimed disregard for existing laws. In the context of China's simultaneous transfer of millions of Chinese settlers into Tibet, this conduct raises serious questions concerning possible violations of the Convention on the Prevention and Punishment of the Crime of Genocide.

9. Beijing hardened its policy towards "splittist" activities and repression was intensified all over Tibet to eliminate political dissents. The current intensification of political repression is an outcome of Chinese authorities policies that are clearly reflected in the official

statements of their leaders. During the seventh Chinese People's Consultative Conference, on 22 May, 2000, Lechog, the chairman of the so-called "Tibet Autonomous Region" said: "...government staff should advise local people and their subordinates to oppose splittism and cut ties with the Dalai Lama. The Dalai Lama issue should be studied and any underground organisation activating in Tibet should be filtered and gotten rid of."

10. In conclusion, we call upon the Sub-Commission on Prevention of Discrimination and Protection of Minorities to recognize the persistent pattern of human rights abuses against the Tibetan people. The pattern points to a threat of destruction of the Tibetans as a people unless they are allowed to exercise their right to self-determination. We therefore call upon the Sub-Commission to conduct a study on the current situation of peoples living under foreign occupation and colonialism.

UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL
E/CN.4/Sub.2/2001/NGO/5
3 July 2001

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on the Promotion
and Protection of Human Rights
Fifty-third session
Item 3 of the provisional agenda

ADMINISTRATION OF JUSTICE

Written statement*/ submitted by the Society for Threatened Peoples, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[29 June 2001]

*/ This written statement is issued, unedited, as received in English, from the submitting non-governmental organization(s).

GE. *200101402* LS

Administration of justice for East Timor

In response to the International Commission of Inquiry (ICI) on East Timor the UN Security Council stated on 18 February 2000 that the perpetrators of gross human rights violations in East Timor should be brought to justice "as soon as possible" and that Indonesia should "institute a swift, comprehensive, effective and transparent legal process, in conformity with international standards of justice and due process of law." In December 1999 three UN special rapporteurs on extrajudicial, summary or arbitrary executions, torture and violence against women recommended the establishment of an international tribunal if the trials in Indonesia would not have started within "a matter of months".

Unfortunately until today Indonesia seems unwilling or not able to pursue justice and to prosecute those responsible for gross human rights abuses and violations of the rules of war and international humanitarian law in East Timor. Many new legal obstacles to a fair and impartial prosecution have been introduced in Indonesia, since the Government of Indonesia's declaration that all perpetrators of human rights violations should be put on trial in Indonesia. In August 2000 a Constitutional amendment which introduced the principle of non-retroactivity into Indonesian law, offered the suspects lawyer's the opportunity to an absolute defense to charges relating to the crimes in East Timor. Furthermore the Attorney General failed to start the trials before a deadline provision in the Law on Human Rights Courts came into effect. The lack of an independent and impartial justice and of an effective witness protection programme documents that there are many obstacles to achieve accountability. Impunity prevails for high-ranking officers, such as General Wiranto and Major-General Zacky Anwar. We are especially concerned that President Wahid in his decree in April 2001 which established a human rights court for East Timor, limited this courts jurisdiction to crimes committed since the August 1999 vote. There will be no justice for the victims of gross and systematic human rights violations which have been committed before that vote. Our human rights organisation published in August 1999 a comprehensive report which documented the massive human rights violations which have been committed in the months before. Justice for East Timor is at a crossroads, because ignoring these massacres, politically motivated murders, crimes against humanity and other human rights violations would compromise any effort to achieve reconciliation in East Timor.

Justice is not a form of revenge, but an integral part of the reconciliation process. Administration of justice is an instrument of conflict resolution that precedes reconciliation. Regarding the unwillingness of the Government of Indonesia to achieve justice in East Timor the Society for Threatened Peoples calls upon the UN Sub-Commission on Human Rights to urge the UN Security Council to take immediate steps to establish an International ad hoc Tribunal on East Timor under Chapter VII of the UN Charter. Furthermore the Sub-Commission should appeal to the UN to provide more financial and professional support to East Timor judges, prosecutors and defenders.

UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL
E/CN.4/Sub.2/2001/NGO/6
3 July 2001

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on the Promotion
and Protection of Human Rights
Fifty-third session
Item 5 of the provisional agenda

PREVENTION OF DISCRIMINATION AND PROTECTION OF INDIGENOUS PEOPLES AND MINORITIES

Written statement*/ submitted by the Society for Threatened Peoples, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[29 June 2001]

*/ This written statement is issued, unedited, as received in English, from the submitting non-governmental organization(s).

GE. *200-0-4406*
LS
ENG

We would like to draw your attention to the human rights situation on an Asian region where several indigenous peoples are claiming for a long time to restore their fundamental rights because their territories had been splitted up by forming the states of India, Myanmar and Bangladesh. Before going into details referring to the case of the "Zo" people, we first would like to highly welcome the fact, that the cease-fire between India and the Nagas could be extended. Considering the problems which faced the negotiations, we feel this extension will substantially contribute to find a political solution for the area.

The case of the people who identify themselves as Zo is not principally different from what we know about colonial ruling by Britain in the Asian context. They suffered the colonial expeditions to invade the Northeastern region of South Asia. The so called Chin-Lushai Conference in 1892 did mention the Zo people and a resolution had been seeking to re-instate Zo people under one administration unit. The colonial power recognised the distinctive nationality of Zo people and adopted a special legislation for governing the Zo's country as a different area.

The latest of these regulations, the Government of India Act in 1935, acknowledged that Zo people would be free and independent with the right to decide their future political destiny. All political parties formed by Zo people in the post World War II called for reunification of the Zo country under the umbrella of one administrative unit. We know that history did not coincide with this project.

So, the case of the Zo people was redefined and enunciated in the so called Champhai Declaration adopted in May 1988 during a convention held by the Zo Reunification Organisation, a political forum for the Zo inhabited areas. As the name indicates, the Zo Reunification Organisation (ZORO) is committed with a peaceful process of reunification of the Zo areas according to the above mentioned Chin-Lushai Conference. ZORO also pleads for food shelter, help in appropriate education and health service for its people.

Respected Members of the Sub-Commission, we are aware that the Northeastern area of South Asia is a highly sensitive region; still not very well known at the international agenda. Considering the circumstances, we feel that a report on the human rights situation on minorities like the Zo would be very helpful to further discussion on how the administrative unit of the Zo might be reached. Additionally, an international conference dealing with the entire region also would encourage a peaceful process towards peoples' self determination.

NATIONS

E

Economic and Social Council

Distr.
GENERAL
E/CN.4/Sub.2/2001/NGO/7
3 July 2001

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on the Promotion
and Protection of Human Rights
Fifty-third session
Item 2 of the provisional agenda

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII)

Written statement*/ submitted by International Educational Development, Inc., a non-governmental organization on the Roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[28 June 2001]

---

*/ This written statement is issued, unedited, as received in English, from the submitting non-governmental organization(s).

GE. 0 1 - 4 4 1 0 LS

ENG

HUMAN RIGHTS IN KASHMIR

1. Eleven years ago International Educational Development/Humanitarian Law Project prepared a written statement (U.N. Doc. E/CN.4/Sub.2/1990/NGO/26) on the situation in Kashmir. At that time, an escalation of human rights and humanitarian law violations at the hands of the military forces in Indian-occupied Jammu and Kashmir was exceptionally serious, brought about by renewed insistence by the people of Jammu and Kashmir that the UN-mandated plebiscite be carried out as soon as possible.[1] The Kashmiri people, and their armed defenders, attempted to resist this onslaught, but the armed conflict was primarily effecting the civilian population in the area due to extreme military force by the Indian authorities directed at the civilian population rather than against the Kashmiri military units.

2. In the eleven years since our first statement the situation in Jammu and Kashmir has deteriorated markedly. While the number of Indian military troops varies (ranging from 400,000 to 800,000 persons), the area is essentially under a continual state of siege.[2] Grave breaches of the Geneva Conventions occur with alarming frequency: assassination of political leadership, disappearances, murder and torture of POWs, torture (including rapes) and custodial deaths of civilians, military attacks on the civilian population, attacks on hospitals and medical aid providers, restriction on medical aid and the like. Refugees continue to flee. The United Nations Security Council resolutions regarding the plebiscite remain unimplemented.

3. The international community is well aware of both the failure to implement the plebiscite as ordered by the Security Council over 50 years ago and the massive and continuous violations of the Geneva Conventions and human rights norms throughout the past eleven years. International Educational Development alone has raised both issues more than twenty-five times since 1990 at sessions of both the Sub-Commission and the Commission. We have sent investigators and circulated reports on Kashmir, beginning at the 1993 Vienna Conference and updated annually at the three sessions of the Commission and Sub-Commission immediately following the Vienna Conference. We have participated in NGO forums and international conferences on this topic. We have brought key Kashmiri legal and human rights leaders to sessions of both the Sub-Commission and the Commission. We sadly lost one of our representatives at the 1995 session of the Sub-Commission, Mr. Jalil Andrabi, Chairperson of the Kashmiri Council of Jurists. Mr. Andrabi was abducted and then killed by the Rashtriya Rifles in March 1996 while we were trying to get the necessary documents for him to attend the 1996 session of the Commission. During our work with him at the 1995 session of the Sub-Commission we became aware firsthand of threats against him due to his participation.

---

[1] United Nations Security Council Resolution 39 of 20 January 1948 established a Security Council Commission (later named the United Nations Commission on India and Pakistan) to resolve the crisis in Jammu and Kashmir at the end of the colonial rule of the United Kingdom. Both the Commission and the Security Council as a whole subsequently decided that the future of Jammu and Kashmir would be decided by a plebiscite of the people in that area. See, for example, Resolution of the United Nations Commission of India and Pakistan, adopted 5 January 1949, reprinted in United Nations Document S/1196 of 10 January 1949. The Security Council, in its resolution 80 (1950) set up a number of steps, as yet unfulfilled, "for the expeditious determination of the future of the State [of Jammu and Kashmir] in accordance with the freely expressed will of the inhabitants." In 1949 the Security Council had established a "line of control" (the LOC) between the part of Kashmir forcibly seized by India in 1948 and the part of Kashmir under Pakistani influence (Azad Kashmir). The United Nations Military Operations Group for India and Pakistan (UNMOGIP) was established in 1949 and still is in place along the LOC.

[2] India's military forces include the Indian Army, the Border Security Forces, the Rashtriya Rifles, the Special Operation Groups and nearly 80,000 state police.

4. Other non-governmental organizations that have also investigated the situation, issued reports and participated in international conferences concur with our assessment of the situation. We have in our archives more than 35 reports of highly credible international non-governmental organizations issued between 1990 and 2000 attesting to the gross violations of both human rights and humanitarian law. [3]

5. Sadly, in spite of the compelling and credible evidence presented, there has been not one resolution of either the Sub-Commission or Commission on Human Rights calling for the plebiscite to be carried out, or, even worse, condemning the violations in Indian-occupied Kashmir. Every time that the situation has been raised in these human rights forums, India replies that the issue in Kashmir is "Islamic terrorists", that Kashmir is an integral part of India, and that in any case, the issue is a bilateral one -- meaning an issue between India and Pakistan. Yet even under India's description of the legal status of Kashmir, that government is not thereby excused for either Geneva Convention violations or violations of human rights. India is and remains liable for all these acts and the international community should condemn them. That there has been silence to date is an affront to human rights.

6. Our organization has pondered this silence, especially because the government of India constantly raises the issue of "Islamic terrorism" -- which is repeated many times by the western media. We have condemned this racially/religiously-biased use of terms on many occasions. In this light we must state again that the focus of the international community should be on the disposition of Kashmir in conformity with the realization of the right to self-determination of the Kashmiri people -- not the religion of some (actually most) Kashmiris. The vast majority of Kashmiri people want the plebiscite not because they are Islamic but because they are Kashmiris who were promised this plebiscite by the United Nations Security Council. They view, and we concur, that their "incorporation" into India is an illegal vestige of colonialism and that therefore they suffer alien occupation. And most importantly, the use of force by Kashmiri military forces cannot be characterized as terrorism but must be viewed as fully covered by both treaty-based and customary humanitarian law.

6. At time of writing (June 2001) the heads of state of India and Pakistan plan on holding talks in which Kashmir will presumably play a predominant part. At this time, it is unknown whether representatives of the Kashmiri people will be permitted to attend the proposed talks -- or even if they took place. If they did take place and offer some glimmer of hope in resolving the 50-year crisis over Kashmir, then IED/HLP urges the Sub-Commission to recognize and support meaningful initiatives. If the talks did not take place or took place with no positive results, we urge the Sub-Commission to take action that can lead to fulfillment of the United Nations Security Council resolutions on this matter. We especially urge the Sub-Commission to stress the importance of the participation of the Kashmiri people through their leadership in any discussion relating to the disposition of Jammu and Kashmir. In any case, we expect the Sub-Commission to assess and address the overwhelming numbers of humanitarian and human rights violations that have accumulated in Indian-occupied Kashmir.

---

[3] A selection of recent reports in our archives on human rights and humanitarian law violations in Indian-occupied Kashmir includes: Amnesty International (3 reports); the International Federation of Human Rights (3 reports); Asia Watch (3 reports), Physicians for Human Rights (UK)(2 reports); Freedom House (annual reports); Committee to Protect Journalists (1 report), Committee of Initiative in Kashmir (New Delhi)(4 reports); South Asia Human Rights Documentation Centre (New Delhi)(2 reports); Jammu and Kashmir Council for Human Rights (3 reports); Jammu and Kashmir High Court Bar Association (3 reports). We also have numerous monographs and hundreds of case testimonies (including photographs). Reports on the situation occur daily in the international media.

UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL
E/CN.4/Sub.2/2001/NGO/8
3 July 2001

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on the Promotion
and Protection of Human Rights
Fifty-third session
Item 2 of the provisional agenda

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII)

Written statement*/ submitted by International Educational Development, Inc., a non-governmental organization on the Roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[28 June 2001]

*/ This written statement is issued, unedited, as received in English, from the submitting non-governmental organization(s).

GE. *200-01444*

LS

ENG

Forced Displacement in Northern Uganda

1. Introduction. Civil war has ravaged Uganda's northern districts since the National Resistance Army/Movement took power under Yoweri Museveni in 1986. The latest phase of the war, waged by the Lord's Resistance Army (LRA), has lasted more than a decade and has been characterized by widely publicized atrocities committed by the LRA, including the forced abductions of thousands of children, massacres of civilians, and widespread rape, mutilation, and looting. International Educational Development/Humanitarian Law Project (IED/HLP) has just completed a two-month fact-finding mission to the conflict zone, and we present herein a brief analysis of our findings in relation to Uganda's adherence to human rights and humanitarian law.

2. The Ugandan Government's counterinsurgency has been brutal, and the civilian population, primarily of Gulu and Kitgum districts, has found itself caught between the violence of the LRA on the one side and the violence of the Ugandan Army, called the Ugandan People's Defense Forces (UPDF), on the other. The abuses by the UPDF are now coming to light, despite denials by the Ugandan Government and silence from the international community. IED/HLP especially acknowledges the statement made by the Secretary General's Special Representative for Children in Armed Conflict at the Commission in April 2001 regarding these matters.

3. The UPDF has forcefully displaced the civilian population of the north several times in the course of the war, the most recent round beginning in 1996. Approximately 350,000 of Gulu district's 400,000 people have been forced into what the Government calls "protected camps," ranging in size from 1000 to over 50,000 individuals. Although the Government claims that people came to the camps of their own volition, those interviewed by IED/HLP unanimously made clear that the UPDF had forced them into the camps, often by bombing and burning villages and murdering, beating, and threatening those who would not comply. Moreover, at present the UPDF does not allow people to return to their homes and regularly kills, tortures, or threatens those found outside the camps.

4. Security. The camps confront a massive security crisis; the Ugandan military simply does not protect the interned civilians. When we visited Pabbo, a camp about 22 miles north of Gulu Town in Gulu district and containing around 50,000 civilians, only 40-50 reserve troops guarded the entire camp. The LRA can, and frequently does, attack at will. These reserve forces, the Home Guard, are poorly trained, undisciplined, and paid the equivalent of about US$17 per month. Lax recruitment procedures enable children as young as 12 and 13 to enlist, officials admitted.

5. The UPDF not only fails to protect the civilians, but it terrorizes them itself. In Pabbo, every reported rape, robbery, and three quarters of the murders since 1998 were alleged to be committed by UPDF soldiers. We and other NGOs have documented extensive and systemic extrajudicial executions, beatings, rapes, and death threats against the camp population by the Ugandan army; in fact, abuses by both sides are so common that villagers flee upon encountering any soldier in the bush, whether LRA or UPDF.

6. UPDF soldiers commit these crimes with impunity. The Uganda Human Rights Commission (UHRC) has no presence in the camps. Victims' access to police is difficult, and those making complaints against the UPDF can be subject to harassment, torture, and execution. When a complaint is made against a soldier, the UPDF commanding officer must detain the suspect; if the officer refuses to cooperate, there is no appeal. It is common for accused soldiers to either flee to other barracks or to be transferred out of the district to avoid prosecution.

7. The camps make the civilians an easy target for both the LRA and the UPDF. We were informed by the UHRC that it had notified the President of the security problems in the camps, but to date nothing has been done to protect the interned civilians. Considering the Ugandan Government's extensive military resources, we conclude that the lack of security in the camps is, for some reason, intentional.

8. Status of Camps under the Ugandan Constitution. The 1995 Ugandan Constitution guarantees a wide range of rights, including rights to the freedom of movement throughout Uganda (Article 29), privacy of person and home (Article 27), and security of property (Article 26). Article 46 states that these rights are subject to derogation only when Parliament is taking measures "that are reasonably justifiable for dealing with a state of emergency." A state of emergency, according to Article 110, must be expressly declared by the President, and then renewed by the Parliament every ninety days. There has been no such declaration of a state of emergency by the President; therefore, these violations of basic civil and political rights are in no way constitutionally permitted derogations, and are illegal under Ugandan law. Violations of non-derogable rights, principally the right to life, and to freedom from torture and cruel, inhuman, or degrading treatment or punishment, are unlawful under any circumstances.

9. Status of Camps under International Human Rights Law. Additionally, these violations are breaches of Uganda's commitments under the international human rights treaties to which it is party, including the International Covenant on Civil and Political Rights and the Torture Convention. Many of the rights guaranteed by these instruments, notably the right to life and the right to freedom from torture, are non-derogable. Under the ICCPR, certain rights may be derogated from, but only when prescribed by law and when other States Parties are notified (Article 4), neither of which is the case.

10. Status of the Camps under Humanitarian Law. As the forced displacement and continued internment of the civilian population takes place within the context of an armed conflict, the Geneva Conventions apply.

11. Common Article 3 to the Fourth Geneva Convention and Protocol Additional II to the Geneva Conventions Relating to the Protection of Victims of Non-International Armed Conflicts are, in IED/HLP's judgment, applicable to Uganda as the conflict there meets minimum requirements for a civil war. Grave breaches thereof constitute war crimes.

12. Article 13 of Protocol Additional II states, *inter alia*:

> ...The civilian population as such, as well as individual civilians, shall not be the object of attack. Acts or threats of violence the primary purpose of which is to spread terror among the civilian population are prohibited.

The UPDF's campaign of forced displacement in 1996 and the civlians' continued internment contravene this article, as the civilian population has been both object of attack and subject to acts and threats of violence intended to spread terror.

13. Article 17 of Protocol Additional II reads, *inter alia*:

> ...The displacement of the civilian population shall not be ordered for reasons related to the conflict unless the security of the civilians involved or imperative military reasons so demand. Should such displacements have to be carried out, all possible measures shall be taken in order that the civilian population may be received under satisfactory conditions of shelter, hygiene, health, safety and nutrition.

Even if imperative military reasons justified the creation of the camps, the Government's unwillingness to resolve the security and health crises is a violation of Article 17.

14. Finally, the Government is in violation of civilians' fundamental guarantees, articulated in paragraph 1 of Common Article 3 and Article 4 of Protocol Additional II. The latter states, *inter alia*:

> ...the following acts against the persons referred to in paragraph I are and shall remain prohibited at any time and in any place whatsoever:
> (a) Violence to the life, health and physical or mental well-being of persons, in particular murder as well as cruel treatment such as torture, mutilation or any form of corporal punishment; ...
> (d) Acts of terrorism;
> (e) Outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault;...
> (h) Threats to commit any of the foregoing acts.

The actions of the UPDF against the civilian population of Gulu are in contravention of these guarantees.

15. Many of these violations constitute grave breaches as defined under Article 147 of Geneva Convention IV. Thereby, under Article 146 of the same Convention, the High Contracting Parties are "under the obligation to search for persons alleged to have committed, or to have ordered to be committed, such grave breaches, and shall bring such persons, regardless of their nationality, before its own courts."

16. IED/HLP calls upon the international community to execute its legal duties under humanitarian law and demand the cessation of war crimes committed by the Ugandan armed forces as well as by the LRA. We also call upon the international community to end all military assistance to Uganda while these violations continue. Finally, we demand that those responsible for these crimes be brought to justice as dictated by international law.

UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL
E/CN.4/Sub.2/2001/NGO/9
3 July 2001

Original: ENGLISH AND
FRENCH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on the Promotion
and Protection of Human Rights
Fifty-third session
Item 3 of the provisional agenda

ADMINISTRATION OF JUSTICE

Joint written statement*/ submitted by Franciscans International, a non-governmental organization in general consultative status, and Pax Romana, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[29 June 2001]

---

*/ This written statement is issued, unedited, as received in English and French, from the submitting non-governmental organization(s).

GE. * 2 0 0 - 0 4 4 8 * LS

ENG

Franciscans International, in conjunction with Dominicans for Justice and Peace calls for the end to the death penalty, a penalty that is final and flawed, a penalty that, in many cases reflects both racism and classism; a penalty from which there is no return, no redress; a penalty, that certainly destroys the life of the person condemned, but almost certainly destroys those in whose name the punishment is enacted. We call on all governments to suspend all executions and to abolish the death penalty. We base this call on the writings of Pope John Paul II and of the Bishops of the United States. We base it on our commitment to proclaiming justice and to our history in working to address the unjust structures that impede a just world order. We further base it on the experience of our members in prison chaplainry work and work with the families and friends of victims.

A sign of hope is the increasing recognition that the dignity of human life can never be taken away, even in the case of someone who has done great evil. Modern society has the means of protecting itself without definitively denying criminals the chance to reform. I renew the appeal I made most recently at Christmas for a consensus to end the death penalty, which is both cruel and unnecessary. Pope John Paul II (2000)

We ask all people of good will, particularly Catholics, to work to end capital punishment...we must commit ourselves to a persistent and principled witness against the death penalty, against a culture of death, and for the Gospel of Life. United States Catholic Bishops

Since 1997, the United Nations Commission on Human Rights has adopted resolutions for a moratorium on the death penalty. At present, 109 of the 185 member states of the United Nations have called for an end to the death penalty or a moratorium on its practice. Articles 3 and 5 of the Universal Declaration of Human Rights (UNDHR) state that every human being has the right top life, and the right not to be subjected to cruel and degrading punishment. These rights are inalienable and absolute and cannot depend on behavior. They are the rights of humans, simply, and profoundly, because they are human. To continue to enact the death penalty is to teach that violence and killing are acceptable ways of dealing with violence and killing.

According to Amnesty International, in the past decade more than three countries a year, on average, have abolished the death penalty.

We are compelled to speak out because of the increased use of the death penalty and the state of the death penalty in the United States. By the year 2000, 683 human beings were executed since the death penalty was resumed in 1977. Over 3.700 prisoners in the United States were under sentence of death as of January 1, 2001. To date, 38 states in the United States provide for the death penalty in law; the death penalty is also provided for under United States federal military and civilian law.

In calling for the abolition of the death penalty, w express concerns about its unjust and unequal application. In countries where the death penalty continues to be enacted, it is more likely to be applied in a racist manner, more likely to be applied to minorities and the underclasses in general. Poor people, disabled people and young people are more often subjected to capital punishment.

Execution of the Innocent

Since the reinstatement of the death penalty in the United States in 1977, 93 people in 22 states have been released from death row. Some have come very close to execution after spending many years in prison. Some prisoners have been executed despite serious doubts ove their guilt. Governor George Ryan of Illinois in he US has called a halt to executions in his state until he could be sure the death penalty was being administered fairly. The decision followed the exoneration of the 13th death row prisoner found to have been wrongfully convicted in the state of Illinois, since the USA reinstated the death penalty.

Governor Ryan, who is a death penalty supporter, said there was too much evidence of past mistakes for the system to go unexamined and unchecked.

Independent studies suggest that the death penalty does not lead to a decrease in capital crimes.

A study conducted by the United Nations in 1988 and updated in 1996 stated that "the fact that all the evidence continues to point in the same direction is persuasive *a priori* evidence that countries need not fear sudden and serious changes in the curve of crime if thy reduce their reliance on the death penalty".

"Research has failed to provide scientific proof that executions have greater deterrent effect than life imprisonment and such proof is unlikely to be forthcoming. The evidence as a whole gives no positive support to a deterrent hypothesis."

The United States Supreme Court has concluded there is no apparent deterrence that can be related to the threat or enactment of the death penalty.

In a democratic country, the cost of the death penalty is higher than life imprisonment.

We are aware of the pain, anger and suffering of the families and friends of the victims of violence and murder. We pledge to stand with them as they struggle to overcome the terrible loss and to find some sense of peace. We recognize that revenge and rage beget revenge and rage and the cycle of violence must be broken for both justice and peace to reign.

Capital punishment does nothing for the families of victims of violent crime other that prolong their suffering through many wasted years of criminal proceedings. Rather than fuelling their cry for vengeance, the state could better serve them by helping them come to terms with their grief. (United States Catholic Bishops statement on Capital Punishment. 1997)

We "are called to be a community of conscience within the large society and to test public life by the moral vision anchored in Scripture and consistent with the best of our nation's founding ideals." (United States Catholic Bishops statement: "Faithful Citizenship")

As a society, we must struggle to find more humane, more hopeful and more effective responses to violent crime. Each of us bears responsibility to foster an attitude in a broader society, which affirms human life and rejects vengeance as a means of promoting justice. Ultimately the question before us should be: how do we best preserve human life and the dignity of all persons, while at the same time ensuring respect for law and the protection of our society?

Our answer to this question will determine the kind of society we ant to be. We seek a society of justice, not vengeance and violence. We believe a determined, though compassionate response to crime, that forgoes the violence of death penalty, is more consistent with respect for all of human life. It will better protect the rights of all persons. (Cardinal Joseph Bernardin, 1989)

Respect for all human life and the opposition to violence in our society are at the root of our long standing position against the death penalty. We see the death penalty as perpetuating a cycle of violence and promoting a sense of vengeance in our culture.

We oppose the death penalty not just for what is does to those guilty of heinous crimes, but for what is does to all of us; it offers the tragic illusion that we can defend life by taking life. (Most Rev. Joseph Fiorenza, President of the National Conference of Catholic Bishops / United States Catholic Conference, 1999)

We urge governments to seek alternatives to the death penalty that reflect intelligence, civility, compassion and justice. Restoration of society and the healing of victims, as well as reform and rehabilitation of the offenders, must be the goals of a criminal justice system.

We support the moratorium called for by Pope John Paul II in his 1998 Christmas address and the international initiative "Moratorium Now", a movement organized to suspend all executions.

We call on all governments to suspend the death penalty and to ratify the Optional Protocol to the International Covenant on civil and political rights on ending the death penalty.

Signed:
Adrian Dominican Sisters, Office of Global Mission, Justice and Peace
Adrian Dominican Sisters, Nokomis Mission Chapter$
Blauvelt Dominican Sisters, Social Justice Committee
Dominican Leadership Conference, NGO
Dominican Sisters of Hope, Leadership Team
Dominican Sisters, Houston, Texas
Dominican Sisters of the Presentation, US Province
Dominican Sisters, Mission San Jose, Leadership Team
Dominican Sister of Sparkill
Dominicans of the Roman Congregation, USA Province
Eucharistic Missionaries of St. Dominic, New Orleans
Sinsinawa Dominican Sisters, Southern Province
Springfield Dominican Sisters
St. Mary of the Springs Dominican Sisters
Tacoma Dominican Congregation, Leadership Team